

To: Ardillo, Anne[ARDILLO.ANNE@EPA.GOV]; McPherson, Ann[McPherson.Ann@epa.gov]; Plenys, Thomas[Plenys.Thomas@epa.gov]; Sysum, Scott[Sysum.Scott@epa.gov]
From: Gerdes, Jason
Sent: Fri 8/19/2016 10:40:38 PM
Subject: LAW: Interior must study wildlife harm from Pacific fracking — enviros

Another potential lawsuit involving fracking in the Pacific Ocean...

LAW: Interior must study wildlife harm from Pacific fracking — enviros

Ellen M. Gilmer, E&E reporter

Published: Thursday, August 18, 2016

Another environmental group is threatening to sue the Obama administration over hydraulic fracturing in the Pacific Ocean.

The Center for Biological Diversity yesterday told Interior Department officials it planned to file a lawsuit against the agency for approving fracking off the California coast without giving adequate consideration to the impacts on several threatened and endangered species. The notice of intent comes a week after the Environmental Defense Center filed its own notice on similar grounds (EnergyWire, Aug. 11).

"Every offshore frack puts California's wonderful coastal wildlife at risk from toxic chemicals or another deadly oil spill," CBD attorney Kristen Monsell said in a statement. "It's disturbing to see the federal government ignore its legal responsibility to carefully consider the dangers of offshore fracking and prolonged drilling to whales, sea otters and other species already struggling to survive."

CBD and EDC have waged a legal assault against Pacific fracking for nearly two years. They first sued in late 2014 and early 2015, challenging Interior's Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement on their routine permitting of offshore fracking and "acidizing," which relied on a National Environmental Policy Act "categorical exclusion" subjecting drilling applications to simple checklist criteria rather than robust review.

In a settlement with both groups earlier this year, Interior performed a new environmental assessment on well stimulation in the ocean, concluding that the impacts were not significant (EnergyWire, May 31).

But environmentalists say the assessment also shed light on an array of wildlife that

would be hurt by the activity. While the agency acknowledged the threats, CBD says, it failed to consult with wildlife agencies that handle Endangered Species Act issues.

"Offshore fracking doesn't belong off the California coast, and the federal government certainly has no right to let the oil industry frack in these waters without fully analyzing the risks this toxic technique poses to imperiled marine animals," Monsell said.

The group's letter notes that biological opinions performed for many of the species affected by offshore platforms date back decades and do not specifically consider fracking.

"The biological opinions for offshore oil and gas drilling activities from Platforms Gilda, Hidalgo and Gail — where most known offshore fracking activities have occurred — were issued by the Services in 1979, 1984, and 1986, respectively, and do not even mention offshore fracking," the letter says. "Moreover, these consultations were completed before many species were listed under the ESA, including white and black abalone, hammerhead sharks, green sturgeon and tidewater goby, among others; and do not consider the impacts of any oil and gas activities on these species."

CBD will file suit in 60 days if Interior does not suspend all offshore fracking and acidizing approvals and complete a comprehensive analysis under the ESA.

Interior does not comment on pending litigation.

Jason Gerdes
U.S. EPA Region 9
Environmental Review Section (ENF-4-2)
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-4221